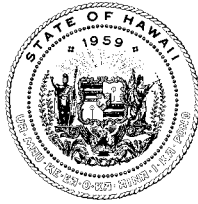


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September 7, 2001

**MEMORANDUM**

TO: Whom It May Concern

FROM: Real Estate Branch

SUBJECT: Ex Parte Communications with Individual Commissioners

The nine member Real Estate Commission ("Commission") is a quasi-judicial board which can only act, decide, or render an opinion or interpretation as a group at a lawfully convened meeting. As individuals, the Commissioners have no authority to make decisions, take action, or render opinions for the Commission, nor are they authorized to receive information about any pending matter.

The Commission makes decisions on applications (real estate and condominium), complaints, disciplinary actions, recovery fund actions, litigation, contracts for services or goods, declaratory rulings, and may issue interpretations or opinions of laws or rules under its jurisdiction.

The law prohibits any communication directly with a Commissioner on any pending or future matter which the Commission may decide upon, which is known as ex parte communication. Clearly, any communication intended to influence a decision is prohibited, but efforts to determine a Commissioner's position, opinion, or interpretation are also improper. While some have attempted to circumvent the decision making process and influence the decision, generally, the ex parte communication is done innocently and the person just wants to discuss it directly with a Commissioner, wants to get a feel of how the Commission will decide, wants to confirm that the commissioner has all the facts, or wants to get the Commissioner's opinion or interpretation. Whether contact with an individual Commissioner is by telephone, in person, letter, fax, e-mail or via a third party, it is considered an "ex parte communication" and is improper. A Commissioner who has been contacted ex parte will be disqualified from discussing, participating in the decision making process, and voting on the matter.

If you have a pending or future matter which the Commission will have to render a decision, do not contact nor have someone else contact a Commissioner. Instead, contact either a Real Estate Specialist or a Condominium Specialist at the Real Estate Branch for assistance. Although the staff will not be able to tell you how the matter may be decided, recommendations may be provided on possible alternatives, information on procedural steps, and how to present the matter to the Commission. Should you have any questions, please call (808) 586-2643, or you may call toll free from the neighbor islands (Hawaii – 974-4000; Kauai – 274-3141; Maui – 984-2400; Molokai and Lanai – 1-800-468-4644).